REMARKS/ARGUMENTS

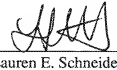
In the Final rejection dated March 9, 2009, the Examiner rejected claims 1-3, 5-20, 23-25, 27, 28, 30-35, 39 and 42-47 under 35 U.S.C. §103(a) as allegedly obvious over Abele, et al. (U.S. Patent No. 5,403,311) in view of West, et al. (U.S. Patent No. 5,316,525). However, Applicant has amended independent claims 1, 9 and 23 to recite a penetration monitoring electrode fixedly mounted on the injection needle. Neither Abele nor West teach or suggest such a feature.

In rejecting the claims over Abele and West, the Examiner asserts that column 3, lines 25-52, column 4, lines 19-29, column 5, lines 53-55, and column 8, line 50 to column 9, line 5 of Abele disclose a penetration monitoring electrode on the injection needle. However, these passages discuss a bipolar coagulation catheter having a dome with a conductive coating at a distal end and a "projectable and retractable electrically conductive hollow needle *projectable axially from the end of the dome*." See, e.g., column 3, lines 25-31 (emphasis added). As the needle in Abele is projectable from the end of the dome, the dome is not fixedly mounted on the injection needle, as recited in independent claims 1, 9 and 23. Moreover, Abele nowhere teaches or suggests that the dome is a *penetration monitoring* electrode. Indeed, as the needle in Abele projects from the end of the dome, the dome cannot be a penetration monitoring electrode. Accordingly, independent claims 1, 9 and 23, and all claims dependent therefrom, including claims 2, 3, 5-8, 10-20, 24, 25, 27, 28, 30-35, 39, 42-47 and new claims 48-50, are allowable over Abele and West.

The Examiner also rejected claims 4 and 26 under 35 U.S.C. §103(a) as allegedly obvious over Abele and West in view of Cosman (U.S. Patent No. 4,966,597). However, each of claims 4 and 26 depends from one of independent claims 1, 9 and 23, all of which are allowable over Abele and West, as discussed above. Cosman fails to remedy the deficiencies of Abele and West, as Cosman also fails to disclose a penetration monitoring electrode fixedly mounted on the injection needle. Therefore, independent claims 1, 9 and 23, and claims 4 and 26 which depend therefrom, are allowable over Abele, West and Cosman.

Claims 1-20, 23-28, 30-35 and 44-50 now remain pending in this application. By this amendment, applicant has canceled claims 39, 42 and 43, and amended claims 1, 9 and 23 to place the claims in condition for allowance. In addition, Applicant has amended claims 1, 9 and 23 to remove the recitation that a portion of the injection needle comprises plastic tubing as this limitation is not necessary to overcome the cited prior art. Applicant has also added new claims 48-50, each of which depends from one of allowable claims 1, 9 and 23. The amendments and new claims find full support in the original specification, claims and drawings, and no new matter is presented. In light of the above amendments and remarks, Applicant submits that all of pending claims 1-20, 23-28, 30-35 and 44-50 are in condition for allowance. Applicant therefore respectfully requests reconsideration and a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number indicated below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By 
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